

4011. Adulteration and misbranding of evaporated apples. U. S. * * * v. 15 Boxes of Evaporated Apples, etc. Decree of condemnation and forfeiture. Product ordered destroyed. (F. & D. No. 265-c.)

On December 23, 1914, the United States attorney for the District of North Dakota, acting upon a report by the pure food commissioner for the State of North Dakota, authorized by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 15 boxes of evaporated apples (25-pound size), 20 boxes of evaporated apples (50-pound size), and 4 cases, each containing 50 15-ounce cartons of evaporated apples, remaining unsold in the original unbroken packages at Bismarck, N. Dak., alleging that the product had been shipped and transported from the State of Arkansas into the State of North Dakota, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Evaporated Apples, Star Brand, Packed by Ladd Bros., Fayetteville, Ark., Selected Fruit Carefully Packed."

It was alleged in the libel that the product was adulterated in that it was in part composed of a filthy, decomposed, putrid animal or vegetable substance, unfit for food. It was further alleged that the product consisted in part of a filthy, decomposed, putrid animal or vegetable substance, unfit for food, in that said product contained excreta, dirt, and maggots, and was moldy, worm-eaten, and defective, and was not "selected fruit carefully packed." It was further alleged that the product was not fit for use, but, on the contrary, contained filthy, decomposed, putrid vegetable and [or] animal substance, in that said product consisted in part of excreta, dirt, and maggots, and was moldy, worm-eaten, defective, and made-up in part of decomposed and putrid animal and [or] vegetable substance, none of the apples being fit for food.

Misbranding of the product was alleged for the reason that the cartons were labeled as containing 15 ounces, whereas, in fact, they contained a less quantity. It was further alleged that the labels upon the boxes of the product were deceptive, false, and misleading, and that the product was misbranded contrary to law in such a manner as to deceive the general public. It was further alleged that the labels on the packages and cartons, set forth above, bore a statement relative to said evaporated apples which was false and misleading and that the aforesaid product, hereinbefore described, was so labeled and branded as to deceive and mislead the purchaser.

On December 31, 1914, the case having come on for hearing before the court, upon the libel and answer theretofore filed by the Bismarck Grocery Co., and the court having heard the evidence, and it appearing to the satisfaction of the court that the property was misbranded and adulterated contrary to the statute in such case made and provided, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., October 26, 1915.